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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/791,700	03/04/2004	Toshihiko Kobata	086142-0645	5117
22428	7590	08/02/2005	EXAMINER	
FOLEY AND LARDNER SUITE 500 3000 K STREET NW WASHINGTON, DC 20007			DAVIS, OCTAVIA L	
			ART UNIT	PAPER NUMBER
			2855	

DATE MAILED: 08/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/791,700

Applicant(s)

KOBATA, TOSHIHIKO

Examiner

Octavia Davis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

## A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 3/4/04 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 3/4/04, 4/5/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Specification*

1. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors because it contains more than 20 pages. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

### *Drawings*

2. Figures 10A – 10C should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### *Double Patenting*

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214

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USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1 – 10 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 – 6 of copending Application No. 10/780,583. This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Regarding claim 1, although the conflicting claims are not identical, they are not patentably distinct from each other because both sets of claims include a seat rail 8 for guiding a vehicle seat 1 movably in a front- rear direction of a vehicle, a base frame 21 fixed to one of the vehicle seat and the seat rail to support a load imposed on the vehicle seat; a base bracket 35 fixed to the seat rail, an arm 61 supported by the base to receive the load imposed on the vehicle seat and a load sensor 51 supported by the arm to detect the load imposed on the vehicle seat, wherein at least one of the base frame 21 and the base bracket 35 include a load support mechanism 81 to support a load heavier than a predetermined load imposed on the vehicle seat (See Col. 5, lines 53 – 67) but does not disclose that the seat rail is fixed to the vehicle body. However, in Kobata et al (Application No. 10/780,583), the seat rail 8 is fixed to a vehicle body 7 (See Page 2, Section 0037).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the

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invention was made to incorporate the vehicle body for the purpose of, fixing the seat brackets to the car body to enable to vehicle seat to be stably supported by the car body allowing for the load, applied to the vehicle seat, to be more precisely detected by load sensors (See Kobata et al, Page 2, Sections 0037, lines 9 – 13).

Regarding claim 2, the base bracket 35 is connected to the base 21 by a rivet 82, 83 (See claim 1 of Kobata et al).

Regarding claim 3, the base bracket 35 overlies the base frame 21 (See claim 1 of Kobata et al).

Regarding claim 4, the base bracket 35 is positioned between the base frame 21 and the seat rail 8 (See claim 1 of Kobata et al).

Regarding claim 5, the base bracket 35 is positioned to overlie a rear end of the base frame 21 (See claim 1 of Kobata et al).

Regarding claim 6, both the base bracket 35 and the base frame 21 have a u-shape in transverse cross-section (See claim 2 of Kobata et al).

Regarding claim 7, a bolt 24 extends transversely through the base frame 21 and the base bracket 35 (See claim 3 of Kobata et al).

Regarding claim 8, the base bracket 35 includes holes 31, 33 for receiving the bolt 24 (See claim 4 of Kobata et al).

Regarding claim 9, the base frame 21 includes slots 32 for receiving the bolt 24 (See claim 4 of Kobata et al).

Regarding claim 10, portions of the base frame 21 adjacent to the slot 32 and portions of the base bracket 35 adjacent to the holes 31, 33 are configured to support a heavy load applied to the seat during a vehicle collision (See claim 3 of Kobata et al).

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1 – 10 are rejected under 35 U.S.C. 102(e) as being anticipated by Kajiyama.

Regarding claim 1, Kajiyama discloses a seat weight measuring apparatus comprising claims include a seat rail 9 fixed to a vehicle body 7 to guide a vehicle seat 1 movably in a front- rear direction of a vehicle, a base frame 21 fixed to one of the vehicle seat and the seat rail to support a load imposed on the vehicle seat, a base bracket 35 fixed to the seat rail, an arm 61 supported by the base to receive the load imposed on the vehicle seat and a load sensor 51 supported by the arm to detect the load imposed on the vehicle sea, wherein at least one of the base frame 21 and the base bracket 35 include a load support mechanism 81 to support a load heavier than a predetermined load imposed on the vehicle seat (See Col. 5, lines 53 – 67 and Col. 6, lines 1 – 48).

Regarding claim 2, the base bracket 35 is connected to the base 21 by a rivet 9R (See Col. 6, lines 25 – 31).

Regarding claim 3, the base bracket 35 overlies the base frame 21 (See Fig. 3).

Regarding claim 4, the base bracket 35 is positioned between the base frame 21 and the seat rail 9 (See Fig. 3).

Regarding claim 5, the base bracket 35 is positioned to overlie a rear end of the base frame

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21 (See Fig. 3).

Regarding claim 6, both the base bracket 35 and the base frame 21 have a u-shape in transverse cross-section (See Col. 6, lines 12 – 13).

Regarding claim 7, a bolt 24 extends transversely through the base frame 21 and the base bracket 35 (See Col. 6, lines 37 – 63).

Regarding claim 8, the base bracket 35 includes holes 32 for receiving the bolt 24 (See Col. 6, lines 32 – 48).

Regarding claim 9, the base frame 21 includes slots 32 for receiving the bolt 24 (See Col. 6, lines 12 – 18 and 32 – 48).

Regarding claim 10, portions of the base frame 21 adjacent to the slot 32 and portions of the base bracket 35 adjacent to the holes 32 are configured to support a heavy load applied to the seat during a vehicle collision (See Col. 6, lines 53 – 59).

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Ishida (6,739,206) discloses a load detection structure for a vehicle seat.

Sakamoto et al (6,732,593) disclose an attachment structure of a load sensor for a vehicle seat.

Kimura (6,520,023) discloses a load detection structure for a vehicle seat.

7. Any inquiry concerning this communication should be directed to Examiner Octavia Davis at telephone number (571) 272 - 2176. The examiner can normally be reached on Maxiflex.

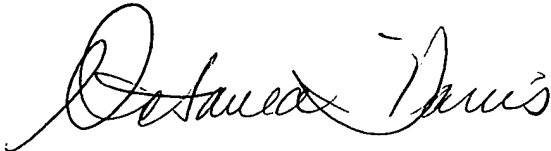
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor,

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Edward Lefkowitz, can be reached on (571) 272 - 2180. The fax phone number for the organization where this application where this application or proceeding is assigned is (703) 872 - 9306.

A handwritten signature in cursive script, appearing to read "Patricia Davis". The signature is written in black ink and is positioned above the text "OD/2855".

OD/2855

7/30/2005